

REMARKS

The Examiner has indicated that the title of the invention is not descriptive and that a new title is required.

The title has been amended in this Amendment.

Claims 1-5 and 7-14 are rejected under 35 USC 103(a) as being unpatentable over Allen et al. (US 5,737,491).

The Examiner has rejected claims 1-5 and 7-14 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,737,491 to Allen et al. (hereinafter "Allen") either alone or in combination with another reference. Applicants respectfully traverse the §103(a) rejections on the ground that the Allen reference is not available as a prior art reference for use in a §103(a) rejection against the present application.

Applicants note that the Allen reference utilized by the Examiner in formulating the §103(a) rejections is commonly assigned with the present application. Moreover, the present application, as a divisional application filed on February 14, 2001, is entitled to the benefit of 35 U.S.C. §103(c).

The subject matter of the Allen reference and the claimed invention were, at the time the invention was made, owned by or subject to an obligation of assignment to the same person, namely, Eastman Kodak Company. Therefore, Applicants submit that the Allen reference, which issued April 7, 1998, after the February 20, 1997 priority date of the present application, is not available as prior art in a §103(a) rejection of the present application. See MPEP §706.02(l).

The §103(a) rejections of claims 1-5 and 7-14, based on Allen are therefore believed to be improper and should be withdrawn.

Claim 6 is rejected under 35 USC 103(a) as being unpatentable over Allen et al. in view of Hiyashi et al. (US 5,434,618).

Dependent claim 6 is believed to be allowable for at least the reason identified above with regard to independent claim 1.

It is believed that the claims in the application are allowable over the prior art and such allowance is respectfully requested.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Eastman Kodak Company Deposit Account No. 05-0225.

A duplicate copy of this communication is enclosed.

Respectfully submitted,

A handwritten signature in cursive script, reading "Pamela R. Crocker", written over a horizontal line.

Pamela R. Crocker

Attorney for Applicant(s)

Registration No. 42,447

PRC:cjm

Telephone: (585) 477-0553

Facsimile: (585) 477-4646